IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 4763 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE N.G.NANDI

and

Hon'ble MR.JUSTICE J.R.VORA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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MAHENDRAKUMAR ASHARAM THAKKAR

Versus

GOVINDBHAI HARIBHAI MAKWANA

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Appearance:

MS KN VALIKARIMWALA for Appellants

Respondents No. 1 & 2 served

MR PV NANAVATI for Respondent No. 3

MR VIBHUTI NANAVATI for Respondent No. 3

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CORAM : MR.JUSTICE N.G.NANDI

and

MR.JUSTICE J.R.VORA

Date of decision: 06/04/2002

ORAL JUDGEMENT (Per : MR.JUSTICE N.G.NANDI)

1. The claimants - parents of the victim daughter aged about 20 years, who lost her life in the accident, have preferred this Appeal under Section 173 of the Motor Vehicles Act for enhancement of the compensation awarded by the Motor Accident Claims Tribunal (Aux.) at Rajkot.

2. It is jointly submitted by learned advocates appearing for the parties that there is no need to call for the record and proceedings of the Trial Court as the only dispute is about the multiplier and the income of the deceased, R&P from the Trial Court being not required, has not been called for.

3. The deceased Truptiben, aged about 20 years, was going on motorbike driven by Mr. Jagadishbhai Devjibhai Ajudiya from Rajkot to Jasdan on 17.4.1993. That the deceased was serving as a Primary Teacher at Rajkot. The Tribunal has estimated the income of the deceased at Rs. 1,500/- p.m. and applied the multiplier of 17 considering the age of the deceased.

4. It is submitted by Ms. Valikarimwala, learned advocate for the appellants that the income estimated at Rs. 1,500/- p.m. is on a much lower side and that the multiplier also could have been more than 17.

6. It is not disputed that the deceased was the only child of the parents, who preferred the Application under Section 166 of the Motor Vehicles Act on account of the death of the deceased Truptiben in the vehicular accident in question.

7. Mr. P.V. Nanavati, learned Advocate for respondent No.3 has not disputed the fact that the deceased was serving as Primary Teacher at the time of her death and she was a young girl aged about 20 years.

8. It is suggested from the impugned award that the mother of the deceased stated that the deceased was serving as primary teacher, earning Rs.1,500/- p.m. and was also giving private tuitions and thereby augmenting her income.

9. Mr. P.V. Nanavati, learned Advocate has also not much disputed the income from the service as well as the income from tuitions given by the deceased. Having regard to the fact and circumstances as stated above, the

income of the deceased estimated by the Tribunal deserves to be modified upwardly and a lump sum amount of Rs. 30,000/- by way of loss of dependency benefit in addition to the amount already awarded, would be just and proper so as to reasonably compensate the parents on account of the death of their only child.

10. In view of the above, the appeal is partly allowed to the extent that the respondent No.3 Insurance Company shall pay an additional amount of Rs. 30,000/to the claimants with 12% interest from the date of application till the realization of the amount. The additional amount as aforesaid, shall be deposited by respondent No.3 Insurance Company within four months from today. No order as to costs.

(N.G. Nandi, J.) (J.R. Vora, J.)

p.n.nair